

just after 1980 when they came in. They drilled a lot more wells but look what happened.

The green here represents the additional finds, as compared to the oil that we are pumping, and except for this one little brief green blip, there is just nothing but red after they started drilling for oil and kept on drilling for oil. Notice where it is now. It is way down. They recognize that there is not much return for aggressive drilling of oil, and so none of the major oil companies now are aggressively drilling for oil.

I mentioned the articles in these two magazines, and both of them reflect the reality that we really do have a national security implication here. This is the May 9 of this year *Time* magazine, and it has a good article that has questions and answers, and it makes it easy to read that way.

Is the world running out of oil? And the answer is, no, half the oil is left. That is not the problem. The problem is that you cannot get it out fast enough to meet the demands of our growing economies.

So cheap oil is now just part of history? And their answer is, yes, it is going to be expensive from now on.

Mr. Speaker, I appreciate very much the time that the gentleman from Michigan (Mr. EHLERS) yielded me.

Mr. EHLERS. Mr. Speaker, I thank the gentleman from Maryland (Mr. BARTLETT), and I am pleased to reclaim the time. I would like to make a few additional points and see if he has any additional comments.

One thing we have not discussed tonight, which I think is very, very important, is to ask what is the highest and best use of the energy resources we have. Take, for example, natural gas, which many in this country use to heat their homes.

I live in Michigan, the so-called "Frozen North." We use natural gas to heat our homes, and it is wonderful. It is clean burning and so forth, but what has happened with natural gas, because it is clean burning, the power plants, which now have to meet strong environmental requirements if they are burning coal, say, well, let us burn natural gas, it is nice and clean, and we do not have these environmental requirements that we have with coal, and we will save money. So copious amounts of natural gas are being burned in electric power plants to produce electricity. At the same time, those of us who heat it with our homes, our heating bills double because there is just not that much natural gas available.

It is even more serious than that. I have often said that natural gas really is too valuable to burn. Why is that? Because natural gas is a beautiful feed stock for the petrochemical industry. We use a lot of fertilizer on our farms, and so do other countries and that is why we had the Green Revolution. We are able to feed far more people today than anyone anticipated because we are using a lot of chemical fertilizer.

Much of it is made from natural gas or petroleum.

Now, if we run short on supplies of natural gas and petroleum, as the gentleman from Maryland (Mr. BARTLETT) was showing us with his Hubbert curve, then you have a problem because where are we going to get the feed stocks for our petrochemical industry? Where will the plastic manufacturers get their materials, because that is all made from natural gas or petroleum? Where will the farmers get their agriculture because that is made from natural gas and oil? And so on and down the line. So we really as a Nation should be asking ourselves, what is the highest and best use of the energy resources we have.

We have huge amounts of coal available in this country. Russia, incidentally, has far more coal available than we do, but coal is dirty. But why do we not investigate ways that we can use that to provide for our electrical needs in a very clean way and reserve the natural gas in the oil for higher and better use?

There are other issues that arise from this, and again, recognizing the time spans available, we have not talked much about Europe tonight, but recognize that the reason we have not is because Europe basically has very little natural gas and oil left. They are importing virtually all of it. They still have some coal but not a huge amount of it. So we have not been talking about them, but they still use a lot of energy. Europe has a greater population than the U.S., and they use a great deal of energy.

Where are they getting it? They turned to nuclear energy. In the midst of all the discussion and upheaval in the United States about nuclear energy and the dangers and so forth, we produce only 20 percent of our electricity from nuclear energy. France, I believe, is at 80 percent now, and I believe India is even higher than that. These other Nations have turned to nuclear energy for two reasons.

First of all, they do not have supplies of fossil fuels such as coal, oil and natural gas.

□ 2115

Secondly, they have decided it is safer because it does not give off greenhouse gases. Maybe we have to learn a lesson from these other nations and say, look, oil and coal and natural gas are too valuable to just burn to produce electricity. Let us produce our electricity in other ways, perhaps nuclear fusion reactors, as France, India, and other nations are doing. Perhaps we should work more actively on fusion research so that we can build nuclear fusion reactors, which should be cleaner and safer by far. So there are a lot of different options to investigate.

Also, I mentioned earlier photo cells, or photovoltaics, and I mentioned this article from the *American Physical Society News*, excellent article, written by Dr. Alvin Compaan from the Univer-

sity of Toledo. I did not realize he had written it until I reached the end of the article when I was reading it, and I was delighted because he was a former student of mine some years ago at Calvin College. But he points out here, toward the end, that we have made so much progress in developing solar cells, or photovoltaics cells, that he envisions that by the year 2015 the electricity produced by photovoltaic cells, or solar cells, will cost only about 6 cents per kilowatt hour.

Well, that is more than competitive with the energy producing power plants today using coal, oil or natural gas, because they have transmission costs and transmission lines, whereas the photovoltaic cells can be in your back yard or on your roof.

He also says the current predictions are that half of all new U.S. electricity generation will be produced by photovoltaics by the year 2025. That will be an amazing growth, and it will be interesting to watch that and see if it happens, because that will definitely give us a heads-up and the opportunity to greatly improve our energy situation.

There are other ways, as I have outlined, of using solar energy, other ways of using our savings and our inheritance. But always keep in mind it is our responsibility to provide for our children and grandchildren the resources that they are going to need in this world to do their work, to grow plants, to produce products, to manufacture. And if we run away with all this coal, oil, and natural gas and do not leave our kids and grandkids any, and we do not do the research necessary now to provide alternatives, we are not helping our kids and grandkids. In fact, we are depriving them of things that they will need to go forward in life.

So I urge the Congress to adopt legislation that will help develop alternative energy sources that will make certain that our kids and grandkids have enough energy to use and can live a decent lifestyle, as we do today, and that we not waste our resources but shepherd them and use them wisely as a means of producing new energy resources that our children and grandchildren can use.

#### SENATE FILIBUSTER

The SPEAKER pro tempore (Mr. DENT). Under the Speaker's announced policy of January 4, 2005, the gentleman from New Jersey (Mr. PALLONE) is recognized for 60 minutes as the designee of the minority leader.

Mr. PALLONE. Mr. Speaker, I do not intend to use all the time this evening, but I did want to take to the floor this evening on the first day of this week because of my concern of what may be happening in the Senate on the issue of the filibuster.

I know that the word filibuster to many may seem a little obscure. People ask what it is about, why it is significant, but I do want to say that in

my home State of New Jersey there have been many manifestations by New Jersey residents of all walks of life about their concern if the Senate Republicans were to go so far as to eliminate the filibuster.

About 2 or 3 weeks ago, at Princeton University in New Jersey, a group of students started their own filibuster to basically point out how important they thought the filibuster was, and they went on for 2 or 3 weeks, or as far as I know they may still be continuing, but all hours of the night, 24 hours a day, 7 days a week having different students and different people, including myself, I went one day on a Saturday with my kids to basically talk about the filibuster. My son read from one of his favorite Goosebumps novels.

The point that so many of these Princeton University students and New Jersey residents were trying to make was that the filibuster is a guarantee of minority rights. They see it, and I see it, and the Democrats here in the House of Representatives see the filibuster as a way of checking the absolute power, the absolute power of the majority, in this case the Republican majority.

And of course it is true that the Republicans are in the majority. They control the majority in the Senate, here in the House, the President is also Republican, but I would feel the same way regardless of which party was in power; that the filibuster is a way to guarantee that the Senate acts on a consensus basis, particularly with judicial nominees.

It was always envisioned by our Founding Fathers that the Senate would be different than the House of Representatives. The House of Representatives, because each of us represents a fairly equal number of constituents, is the representative body of the people. We act through majority rule. However, in the Senate, it was always envisioned there had to be more of a consensus; that there would not be the power of the absolute majority. Because, after all, in the Senate they are not necessarily representative in the same way as the House. So you could have, as we have, two Senators from California, and they represent over 50 million people, or millions of people, as opposed to a smaller State, like Delaware or Wyoming, where the numbers may be 500,000 approximately.

So it was always envisioned the Senate should act more on a consensus basis, and that is one of the reasons why the filibuster is in place, to provide a check on the power of the majority; to make sure that minority rights are represented.

Now, I want to talk a little tonight, a little extended debate, if you will, on this whole issue, and I think it is important, first, to start with what the filibuster is. I am actually referencing a statement from the Filibuster Action Center at the People for an American Way. They say, what is the filibuster? The filibuster is one of our democracy's

oldest and most important checks on the power of the majority. It preserves two of our bedrock values: One, protecting the rights of the minority; and, two, promoting compromise. And it works like this. If at least 41 Senators strongly oppose a bill or a judicial nominee, they can vote to continue debate and block a final vote on the issue. A final vote can only be taken if and when the majority wins 60 Senators' votes.

In the context of a Supreme Court battle, the filibuster means that 60 Senate votes may be needed to confirm out of the mainstream judicial nominees rather than a simple majority of 51.

For two centuries, our leaders have supported the tradition of the filibuster in order to promote cooperation and compromise, and because they have recognized the dangers of one-party control and the importance of protecting the rights of the minority.

Now, there is a new word for what the Senate Republicans under Majority Leader FRIST are trying to do, and it is called the nuclear option. I think that is their own phrase. Proponents of the nuclear option seek to break Senate rules and eliminate the filibuster on judicial nominations. They basically argue, and their justification is, the false argument, that the Constitution requires an up-or-down vote in the full Senate on every judicial nomination.

This argument is very much refuted by more than 200 years of Senate history, during which literally thousands of judicial and executive branch nominees have been blocked in the Senate by filibusters, delays, and other tactics. Again, the idea being that it is necessary in the Senate, unlike the House, to have more of a consensus, hence the 60 votes.

Now, I would maintain, and I am continuing making reference to this document from the Filibuster Action Center, that the nuclear option proposed by the Senate Republicans is essentially a radical tactic that would prohibit Senators from using filibusters against extremist judicial nominees. Right-wing Senators and leaders are supporting this destructive action because they want to guarantee the Senate confirmation of far-right ideologues to our Federal courts, but especially our Supreme Court.

The nuclear option is actually a series of steps that right-wing Senators would take to eliminate the filibuster. The nuclear attack would likely begin with one party's Senators provoking a filibuster, most likely by trying to force the confirmation vote on an out-of-the-mainstream appeals court nominee. A Senator would then object, claiming that the filibuster could not be used on a judicial nomination. Vice President CHENEY or another Senator presiding over the Senate would rule in the radical right's favor and then that ruling would be appealed. At that point, a simple majority, with Vice President CHENEY as the tie-breaking

vote, if necessary, would then uphold the ruling and the filibuster would be part of American history.

Now, this nuclear option earns its name essentially for two reasons, Mr. Speaker. First, it breaks the Senate rules in order to eliminate another rule, the filibuster. Under normal Senate procedures it takes 67 Senators, or two-thirds, to end debate on changing a Senate rule. So normally you would have to have 67 Senators, even more than 60, to change a Senate rule; but the nuclear option would violate Senate rules and require only 50 Senators, plus the Vice President's tie breaker.

Secondly, the atmosphere in the Senate after this attack would resemble a nuclear winter. That is one of the reasons why they call it the nuclear option. All bipartisan cooperation would vanish and the Senate's legislative business would grind to a halt, only adding to the price Americans would pay for the right's reckless abuse of power.

I wanted to make three points, again, this is from the People for the American Way from the Filibuster Action Center, three very important points that I think they make.

One is that filibusters are in fact constitutional. The U.S. Constitution gives Senators the vital responsibility and power to confirm or reject the President's nominees to our Federal courts. That is in the Constitution, Article II, section 2. The Constitution also gives Senators the authority to create rules for their own Senate proceedings. That is in the Constitution, Article I, section 5.

For over 200 years, almost since the very founding of this republic, the filibuster tradition has been maintained under this authority and used by Senators of both parties, including the GOP Senate majority leader Bill Frist, in an effort to prevent the confirmation of judicial and other nominees.

The second point. If filibusters reflect the democratic vision of our Founding Fathers, a primary goal of the filibuster is to force greater deliberation and compromise on controversial Senate matters by requiring that they receive 60 votes to proceed. More of consensus. Since it is legitimate to filibuster controversial legislation that future Congresses can revisit, it is even more appropriate to allow filibusters when considering lifetime appointments to powerful positions on the Federal Judiciary.

Remember, these Federal judicial appointments are for life. That is in the Constitution. Our Founding Fathers wanted America's courts to be an independent branch of government, free of partisanship. Because Federal judges serve lifetime terms it is important both parties help determine who is appointed to the Federal bench.

Lastly, on this point, Mr. Speaker, and again I think this is so important, that filibusters are really necessary to prevent one party from having absolute power, which is what the Republican Party wants right now in Washington.

The outgoing Republican chairman of the Committee on the Judiciary, Senator ORRIN HATCH, has himself explained that the filibuster is, and I quote, "one of the few tools that the minority has to protect itself and those the minority represents."

For 200 years, the filibuster has been an essential part of our system of checks and balances and has appropriated cooperation and compromise. I would say consensus. Senators have retained the filibuster rules because they recognize the dangers of one-party control and the importance of protecting the rights of the minority.

I think America works best when no one party has absolute power.

I just wanted to now go, if I could, Mr. Speaker, into this myth that I think Senator FRIST and certainly the leadership on the Republican side in the Senate are trying to give out to the American people; that somehow the Constitution requires an up-or-down vote on a judicial nominee.

If you look at the true history of checks and balances and the advise and consent in the Senate, it is often the case that a nominee never has a vote because the nominee is simply too far, in this case, to the right ideologically to achieve a consensus, to achieve the 60 votes. And there is nothing in the Constitution that says there has to be an up-or-down vote on a judicial nominee if that person is not acceptable because they are too extreme, which is essentially what we have in some of these cases.

□ 2130

Again, I am making reference to the People for the American Way report on this and they say: "To justify a truly unparalleled nuclear option parliamentary maneuver to end filibusters of judicial nominations by breaking the Senate's rules, Senate majority leader Bill Frist asserts that Democratic filibusters are unprecedented and that Senators have a constitutional duty to give Presidential nominations an up-or-down vote on the Senate floor. This assertion is squarely refuted by the history of the confirmation process in the Senate."

To the contrary, as the examples that I am going to be giving illustrate, for over 200 years Members of the Senate have used delaying tactics, including the filibuster, to defeat Presidential nominations to both the Federal judiciary and the executive branch. On many occasions, they have been successful.

Furthermore, nuclear option proponents themselves, including Senator FRIST, have repeatedly used the filibuster themselves to delay nominations, including judicial nominations, and have been successful in defeating nominations through a filibuster and other delaying tactics, in which case the nomination never came to the floor for an up-or-down vote.

Under the Senate rules, there is a right of unlimited debate on any ques-

tion that comes before the Senate, including a nomination. It takes 60 votes to invoke cloture, ending unlimited debate and bringing a nomination or other matter to a final vote. It takes two-thirds of the Senators present, as many as 67, to end debate or on a change to the Senate rules.

So the nuclear option is a proposed parliamentary maneuver which requires a simple majority to get around the Senate rules and amend the Senate rules that requires 60 Senators to end a filibuster. Nowhere in the Constitution, in the text of the Constitution, is there a requirement for a simple majority for a vote on nominations or for any vote at all. What the Constitution does expressly say is that the Senate holds the sole power to make its rules, which certainly must include the rules governing debate on the Senate floor. Again, this interpretation is validated by over 216 years of Senate consideration of nominations.

I want to give some examples because I do not want to just talk about this in the abstract. Until 1949 when Senate rule XXII was amended to allow the Senate to invoke cloture on any matter before the Senate, there was no way for the Senate to end extended debate or delaying tactics on a nomination. It simply kept going. In the last 32 years of the 20th century, the Senate leadership was forced to file cloture on at least 34 nominations to end a filibuster on the Senate floor.

Among those 34 were 13 judicial nominations, of which three people were nominated to be justices of the Supreme Court. So 26 of the 34 filibusters, including in these cases Federal judges, approximately three-quarters were led by Republican Senators.

So when they talk about how it is the Democrats are trying to do this, they should keep in mind that in three-quarters of the cases where filibusters were used in the last 30 or 40 years to stop a judicial nomination, it was the Republicans that were using the filibuster.

I will give some examples. Among these, Abe Fortas, nominated in 1968 to be a Chief Justice of the U.S. Supreme Court, was denied a final up-or-down vote by a Republican-led filibuster when the Senate failed to stop on a vote to invoke cloture by 45-43. In that case, while the vote indicates that a majority of the Senate supported a final vote because of primarily Republican obstructionism, a final up-or-down vote did not occur. Senator Howard Baker argued during debate in defense of the filibuster of Justice Fortas by a Senate minority: "On any issue, the majority at any given moment is not always right." Basically invoking the argument about minority rights.

Similarly, the nomination of Henry Foster to be Surgeon General was killed by a successful Republican filibuster in 1995, as was the nomination of Sam Brown to be a U.S. ambassador in 1994. On both of these votes, a clear majority of the Senate supported the nominations. The exact same advice

and consent clause in the Constitution applies to both judicial and executive branch nominations.

Mr. Speaker, I just wanted to point in several cases the proponents of the nuclear option are supporting or have supported several of these filibusters. For example, Senator FRIST supported a filibuster against U.S. Circuit Court of Appeals nominee Richard Paez in 2000. Senate Republicans, including FRIST, LOTT and MCCONNELL, were so adamant to try to block a final vote on Paez that they forced the Senate to vote an extremely rare motion to postpone the nomination indefinitely after cloture had been invoked.

Some current nuclear option proponents have been among the most frequent Republican filibusterers of nominations. Senators LOTT, HATCH and MCCONNELL all voted against cloture to continue a filibuster on 11 nominations during the first 3 years of the Clinton administration, including on two occasions where filibusters defeated nominees with majority support in the Senate.

Former Senate majority leader TRENT LOTT on at least one occasion even prevented a cloture motion from being filed on a nomination. In 1998, President Clinton named James Hormel to be the U.S. ambassador to Luxembourg. Despite an overwhelming bipartisan vote of approval in committee, 16 to 2, LOTT simply refused to bring the nomination to the floor despite clear evidence that at least 60 Senators would have voted to confirm the nomination.

I could give many more examples, but I am not going to. I am trying to point out the hypocrisy, essentially, in the fact the Senate Republicans, including some who oppose the filibuster, have in the past used it in so many cases, including against judicial nominees.

Mr. Speaker, the gentleman from Michigan (Mr. STUPAK) has joined me, and I yield to the gentleman.

Mr. STUPAK. Mr. Speaker, I saw the gentleman speaking on the floor on this important issue, and I wanted to join the gentleman.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. DENT). The gentleman will suspend. The Chair must advise the gentleman from New Jersey that, under clause 1 of rule XVII, his allusions to hypocrisy are improper.

Mr. STUPAK. Mr. Speaker, I wanted to just come down here because it is a very important issue. It is often said in this House we sort of rush things through, and if it has 218 votes it passes; but the Senate is designed by our Founding Fathers to be more deliberate, more thoughtful, to take time and reason things out.

In order to do that, the minority party, whichever party it may be at the time, has certain rights that must be respected and honored. And what we have seen these last few years, that has not happened.

Unfortunately, when you have one party controlling the House, the Senate and the Presidency, at times they get caught up in their judicial power, their legislative power, their executive power; and they forget about the founding principles of this country, that is, that whether you are in the majority or minority party, there are certain things that should be respected and the right of the minority to be heard.

Whether it is a filibuster, or whether it is on the floor to have an amendment or a substitute bill, the minority should always have that right. In the last few years, I know I and other members of the minority party have felt we have been blocked from even having any thoughtful consideration of legislation. It is the main bill, no amendments are made in order, especially Democratic amendments, and they just ram things through.

Or with the Medicare reform bill, we have 15 minutes to vote; but it is left open for 3 hours and twist arms and have ethics investigations on the way those votes were obtained. Those are things when you do it at 3 in the morning and the vote closes at 6 in the morning like it did on the so-called Medicare reform bill, which is the prescription drug bill, and I am sure people will not be happy next year when they see it; but to hold a vote open from 3 to 6 in the morning, what is the majority afraid of?

One of the founding principles of any democracy, the credibility of your democracy, is how does that majority party treat the minority party. I never learned more about this than when I was dealing with a number of issues dealing with NATO, the North Atlantic Treaty Organization. In order to be admitted to NATO, the dominant country, the majority population, has to treat that minority population with all due respect and courtesies in the legislature and in the executive and the way they are treated in their society.

Being of Slovakian descent, I was instrumental in trying to get Slovakia, and one of the reasons they were not admitted to NATO sooner, there was concern with how Slovakia treated the Hungarian minority in their country. And until reforms were made to show that the Hungarians had a voice in that country and an opportunity to make their views known, they were not going to be allowed into NATO.

So here we have the United States Senate, which says to bring anything before the floor, to have a thoughtful, deliberate consideration, you have to have 60 votes. It is 55-45. You have to have cooperation. The rules force you to cooperate.

Not like here where it is martial law: there is a rule, it passes, no amendments, no substitute bill, go with the majority bill and that is it, vote "yes" or "no."

But in the Senate, it is different. The rules force you to get along. It forces you to talk with each other and discuss

the legislation. What do you object to, how do we do this.

So that is why you have this 60-person majority to bring anything to the floor under a unanimous consent agreement.

If we look at the judicial nominations that President Bush has enjoyed in his 4-plus years in office, there have been 250, and I think 208 have been approved. This is 96 or 97 percent have been approved. That is the best record of any modern-day President: more than President Carter, President Clinton, or the first President Bush.

Not everyone who is nominated who may be a Federal district court judge is automatically qualified to be elevated to the court of appeals or even the Supreme Court. You have a different set of facts. One is a trial judge; the other one is an appellate review judge. And the higher up, the broader your powers over a greater part of the Nation, especially the judicial circuits, all the way to the Supreme Court where one vote could determine the law of the land. So I think you need to have a certain judicial temperament to be elevated to each one of those steps. Those few who have been objected to have been based upon judicial temperament of the individual or the inexperience, whatever it may be; but that is for the Senate to decide.

To change the filibuster rules, if you will, change it for all of it, but they only want to change it for judicial and Presidential nominees. Why not change it for all legislation?

Mr. PALLONE. Mr. Speaker, I think it is just an excuse. I think they are using the judicial nominees and ultimately we will see it for everything else. There is no reason to make the distinction. I would argue there is a stronger case for judicial nominees because they are lifetime judges, and so it is an even stronger case why there should be a consensus and a filibuster should be used.

Mr. STUPAK. Absolutely. If a filibuster is so bad, it should go to 51 votes and not 60, and do it for everything. If you are going to do it for the judges, do it for everybody. Let us do it for the environmental laws, labor laws. Let us do it for trade agreements, defense; let us do it before we go to war, as we did in Iraq. That took 60 votes. But we only want to do it for the select few people.

So if you are really going to have a majority and minority party, if you are going to respect the spirit and the thought behind a minority party being respected by the majority party, if you are going to change the rules, apply them to all of the rules, not selective rulemaking. That is worse than the autocracy or dictatorship or whatever word you want to use where one party determines everything. That is where you have to be very careful.

In my home State of Michigan, we had a judge nominated by President Clinton, Judge White, who sat for over 7 years. Judge White never got a hear-

ing, never did anything. The majority party, then the Republican Party, said we are not going to look at it. I am not saying that is the reason why they are blocking this handful of nominees by the President, because of Judge White; but the point being we have never seen the threat of nuclear option being used before. We saw Judge White sit there for 7 years and was certainly fit for the job. I am not saying tit for tat or anything like that, but what goes around comes around; and there will be a time, hopefully soon, when the Democratic Party will be back in the majority on the Senate side.

□ 2145

I would hate to see this where, well, you blocked us, we're going to block you, or you do this, we do that. That does not do anything for a democracy. The idea behind it that our Founding Fathers had for 217 years has been, there is a minority party which slows things down in the Senate. You may not like it but we have got to take our time and make sure that we do it properly. This President enjoys 96 or 97 percent of all his nominees being sent up and approved. But I guess they want 100 percent. I understand last week they even had an offer to approve a few more of these judges in good compromise, good spirit so we do not have any problems in the Senate. Because I really hate to see this nuclear option that you spoke so eloquently of become a reality in the U.S. Senate because that defeats the whole purpose of the Senate. We should have thoughtful deliberations, something we do not have a lot of time for here. And I understand the rules are different in the House because there are 435 of us. If we all got up to speak our mind, nothing would ever get done around here. But here is an opportunity to show the true principles of democracy and I think the true principles of democracy is again how the majority party treats the minority. They respect them. They give them an opportunity to be heard.

Do they have an opportunity to follow the rules and abide by them, those rules, when it applies to the minority when they are the majority or the majority when they are back to the minority? I would hope we would not get to this nuclear option. I would hope that reasonable minds would prevail. For 217 years it has served our country well. I just hope we do not change those rules on judicial nominees. As you indicated, it is a lifetime appointment, cannot be really recalled unless there is gross, gross, gross, improper behavior on the judicial bench which usually does not happen thankfully in this country.

We are a country of laws. We are a country of rules. No one party or no one person should prevail over them. This President has had, as I said, 96 or 97 percent, 208 of 215 nominees approved, some just in the last week or two. I do not think this nuclear option is viable. I would hope that we would

treat the Senate with all due respect. I would hope that the other body would take this decision carefully and not invoke a nuclear option. Because the only thing left then for the minority party on this side, being the Democratic Party on the Senate side, is to try to disrupt the proceedings of that Chamber.

If they are going to change the rules to suit them every time something they do not agree upon comes up, that is not really a democracy anymore and I think then the Senate minority party has to do what they feel is appropriate to bring attention to the mistreatment or maltreatment by the majority party. I hope it would not come to that because it does not speak well of our democracy. We are supposed to be an example for the rest of the world and how you treat a minority party by the majority certainly is one of the most critical factors that they look to.

We brag about how our country, that our President may ask us to declare war and if we do, the military listens to the civilian. That is a great respect that people always marvel at, how a popularly elected or electoral college-elected President can have control of the military, that the military does not see the President as a threat or the President does not see the military as a threat. That same principle should apply when we deal with one another in these great halls of Congress, whether it is the House or the Senate side.

Unfortunately we are not seeing that. If we don't get our own way, we'll just change the rules. After 217 years, that is not the way to run this country. For whatever reason why they have to have these last seven or eight judges approved to give the President 100 percent, no one gets 100 percent nowadays. Not even the schoolyard bully gets 100 percent. There are times when we have to stop and say, okay, step back a little bit. I would urge the majority party in the other body to step back and do not invoke this nuclear option.

Reading Congress Daily today, I guess the first signs of it are set for Wednesday. We hope it does not get to that. They are talking about staying in all weekend and debating this issue. Debates are fine. Let us respect the rules of the body, whether it is the House or the Senate.

I thank the gentleman from New Jersey for his leadership on this issue and others as he is down here each night working hard for the democracy and for the right of everyone to speak out during their time and place here on this House floor or in the other body.

Mr. PALLONE. Mr. Speaker, I want to thank my colleague from Michigan and his willingness to come down here tonight. I know we both feel very strongly about this. Sometimes I think it is hard to explain because people's images of the filibuster are somebody standing up on the Senate floor reading the phone book, almost like ridiculing the process. But the bottom line is it is a very important part of our democracy.

As you mentioned and I really did not get into it much tonight but I will mention briefly that we have seen here in the House many abuses of power by the Republican majority. You mentioned some of them, where bills do not even come to committee anymore, or bills in committee do not have a hearing, or they skip the subcommittee mark, or they go to full committee and they do not allow Democrats to offer amendments, or bills come to the House floor with a totally closed rule, so there is no opportunity for amendment, or there is very little time for debate. In fact, one of the reasons that you and I are here tonight doing special orders is because oftentimes we do not get a chance to speak during the day when legislation is being discussed because the rules are very limiting.

We have just seen many examples where the Republican majority has limited in the House of Representatives the ability of the minority to speak or offer amendments or offer changes in policy. We do not want to see the Senate go down that route. Clearly, particularly on judicial nominations, the intent of the framers was that there had to be a consensus and the Senate was going to be a deliberative body that operated more, as I said, on a consensus basis.

I just wanted to say again, I was making reference to this document from the People for the American way where Senator FRIST is justifying this nuclear option or this parliamentary maneuver where he would simply have a majority vote on a rule change and that has never been done in the history of the United States Senate. For over 200 years, nearly as long as there has been a Senate, there have been documented examples of presidential nominations rejected by the Senate without even having an up-or-down vote, through delay, inaction, parliamentary tactics, including the filibuster. That history, I think, demonstrates conclusively that from the text of the Constitution there is no requirement for the Senate to vote on a presidential nomination. There is not a requirement that the Senate take any action at all on a nomination, which has often been the case. And the history of the confirmation process in the Senate illustrates another central fact, that Presidents have had the most success with their nominations when they have viewed the entire Senate as a partner in the nominations process, not an adversary. If you listen to Senator FRIST, it is as if the Democrats are an adversary. That is not the way it is supposed to be. The better way out of this current stalemate and the best way to preserve our independent judiciary is not the tyranny of the majority in the Senate but a genuine bipartisan cooperation and consultation with Senators on both the Democrat and the Republican side of the aisle.

Mr. Speaker, as I said and my colleague has said, we continue to see abuse of power by the congressional Republicans.

I will give you another example. Earlier this year here in the House, Republican leaders ignored protocol and weakened the House ethics rules without ever talking with Democrats about the proposed rules change. It was the first time the House ethics rules have been changed without both sides, Democrats and Republicans, sitting at the table and writing new rules together. Fortunately, both conservative and liberal newspapers around the country and the American people saw the weakened rules for the Ethics Committee for what they were, just a power grab and an attempt by the Republican leadership to protect one of their own. The Republican leaders were forced to backtrack and reinstate the rules a couple of weeks ago after Democrats refused to allow the Ethics Committee to meet until the rules were reinstated and the pressure from the public became too great.

But it appears that the Senate Republicans learned nothing from that experience in the House with the rules change that the House Republicans tried to make here. Instead, the Senate Republicans seem prepared to overreach this week, as my colleague said, we hear as early as Wednesday, in an attempt to blow up 200 years of tradition in the U.S. Senate. Majority Leader FRIST and Senate Republicans are on the cusp of waging an unprecedented political grab, abusing their power in order to force through a few judges who have been unable to earn a bipartisan consensus for their lifetime judicial appointments.

This power grab was initiated by the White House, which manufactured a judicial crisis. I think my colleague from Michigan mentioned that since President Bush has taken office the Senate confirmed 208 of his judicial nominations and turned back only 10, a 95 percent confirmation rate. That is the highest approval rating for any President in modern times, including Reagan, Bush and Clinton. Thanks to these confirmations, President Bush now presides over the lowest court vacancy rate since Ronald Reagan was President.

There is no judicial crisis here, Mr. Speaker. It is manufactured by the Republicans. Despite the fact that Democrats have helped confirm 95 percent of President Bush's judicial nominees, the President is choosing to pick fights and resubmit the names of nominees who have been rejected during his first term. There were 10 nominees that our Democratic colleagues in the Senate opposed because they had serious questions about their independence and fairness.

One wonders, why are the Republicans preparing to throw out all these constitutional checks and balances just for a couple of extreme judges? Some people say it is because of the Supreme Court, that President Bush wants this fight on the filibuster before a Supreme Court justice retires, which is something that could happen anytime. That

may be what is behind it, but it is still really not the way to proceed. To say that Supreme Court nominees would only need 51 votes instead of 60, again there would be no consensus on the very important selection of Supreme Court judges.

Again, I think it is just the right wing of the Republican Party that wants to appoint extreme conservatives to the highest court in the land and they simply know they cannot do it if they have to meet the 60-vote threshold. The White House does not want to nominate another David Souter or an Anthony Kennedy or a Sandra Day O'Connor or a Steven Breyer, all of whom were confirmed with nearly unanimous bipartisan support. Instead, it wants to divide the country by picking a right-wing Supreme Court nominee that it knows could not garner bipartisan support.

I just think that again although the motivation may be in terms of the Supreme Court, the bottom line is that we should not be sacrificing this very important safeguard of our democracy, the filibuster, just to appoint some conservative judges that the President wants to nominate.

The last thing I wanted to say, again there is a difference between the House and the Senate. The framers did not want the Senate and the House to be the same. They saw two different bodies. One of the things that would likely happen is if this nuclear option was presented and the filibuster was overturned is the Senate would basically become a second House of Representatives. That is not what the Founding Fathers envisioned when they created two distinct Chambers.

Again, I do not know what is going to happen, but I think we have to speak out and say that this is not just something that myself and my colleague from Michigan feel strongly about. I know and I have even seen polling that suggests that the American people feel very strongly about this. That is one of the reasons why we had this 2 or 3-week filibuster at Princeton University and why some of the Princeton students came down here last week and brought a bus, they called it the "filibus," we were down on the Mall and we spoke to make the point of how important the filibuster is as a safeguard of democracy.

#### PEAK OIL

The SPEAKER pro tempore (Mr. INGLES of South Carolina). Under the Speaker's announced policy of January 4, 2005, the gentleman from Maryland (Mr. BARTLETT) is recognized for 60 minutes.

Mr. BARTLETT of Maryland. Mr. Speaker, the special orders of this evening, I think, have been a good example of a problem that faces families and businesses and countries and indeed is facing the world today and that is the tyranny of the urgent. So often, no matter whether it is your family or

your business or your government, the urgent takes precedence over the important. It is really urgent that we are talking about confirmation of the judges in the Senate and the possibility of the nuclear option. This is just an example of how frequently the need to deal with the urgent diverts us from considering things which in the long run are going to be very much more important than that.

Let me give you an example of what I am talking about here, and this is an article written by Matt Savinar. The introduction to it will really grab your attention if he is correct. This is what he says:

"Dear Reader:

"Civilization as we know it is coming to an end soon. This is not the wacky proclamation of a doomsday cult, apocalypse Bible prophecy sect or conspiracy theory society. Rather, it is the scientific conclusion of the best-paid, most widely respected geologists, physicists and investment bankers in the world. These are rational, professional, conservative individuals who are absolutely terrified by a phenomenon known as global peak oil."

It is not just Matt Savinar that is concerned about this because he quotes several people in his article. One of them is an investment banker that he referenced. That is Matthew Simmons, with whom I had lunch last week.

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Simmons and Company International is considered the most reputable and reliable energy investment bank in the world. Given Matthew Simmons' background, what he has to say about peak oil is truly terrifying. For instance, in August of 2003, in an independent interview with "From the Wilderness" publisher Michael Ruppert, Simmons was asked if it was time for peak oil to become a part of the public policy debate. He responded, "It is past time. As I have said, the experts and politicians have no plan B to fall back on. If energy peaks," he might have said when energy peaks, "it will be a tremendous jolt to our economic well-being and to our health, greater than anyone could ever imagine."

When asked if there is a solution to the impending crisis, Simmons responded, "I don't think there is one. The solution is to pray. Under the best of circumstances, if all prayers are answered, there will be no crisis for maybe 2 years. After that," he says, "it's a certainty."

Mr. Speaker, if we are talking about things that are important, if he is correct, and this evening we will explore the evidence so that the listener can make up their own mind, but if he is correct, this truly is something which is important.

Former industry insider Jan Lundberg recently pointed out: "The scenario I foresee is that market-based panic will, within a few days, drive prices skyward." He is talking about a time when oil prices are peaking and

that this is the response of the market. "And as supplies can no longer slack daily world demand of over 80 million barrels a day," which it is now 84 million barrels a day, "the market will become paralyzed at prices too high for the wheels of economy and even daily living in 'advanced' societies. There may be an event that appears to trigger this final energy crash, but the overall cause will be the huge consumption on a finite planet."

In an earlier hour this evening, the gentleman from Michigan (Mr. EHLERS) shared part of his Special Order hour with me, and he tells the story of when he was a little boy, he was told that there was about 250 years of oil remaining in the world. That was grossly over-optimistic; but even if it were true, his immediate response, he says was, gee, what will the world do when the oil is gone?

We may now be approaching peak oil. What will the world do?

"The trucks," he says, "will no longer pull into Wal-Mart or Safeway or other food stores. The freighters bringing packaged techno-toys and whatnot from China will have no fuel. There will be fuel in many places, but hoarding and uncertainty will trigger outages, violence, and chaos. For only a short time will the police and military be able to maintain order, if at all."

I am not sure that this has to be true. I really hope that it does not have to be true. And what we will be doing is talking about some of the things we need to keep it from being true. And I am sure all have heard of the Lundberg reports on gas prices.

Dr. Ted Trainer explains in a recent article on the thermodynamic limitations of biomass fuels, and this is his quote: "This is why I do not believe consumer-capitalist society can save itself. Not even its 'intellectual' classes or green leadership give any sign that this society has the wit or the will to even think about the basic situation we are in. As the above figures make clear, the situation cannot be solved without huge reduction in the volume of consumption."

Going on in a few moments we will have a chance to look at some curves that put that in context.

Dr. Smalley, in the February 2005, issue of Discover magazine gave the following prognosis as a result of the energy shortage brought on by peak oil and the fact that the world cannot produce oil as fast as the world's growing economies demand it: "There will be inflation as billions of people compete for insufficient resources. There will be famine. There will be terrorism and war." I hope he is not correct.

I am just reading these quotes, Mr. Speaker, to point out that it is not just one person. It is many people who are concerned about this.

The chief economist of Morgan Stanley recently predicted that we have a 90 percent chance of facing "economic Armageddon," while stating, "I fear